



Corporate Litigation Alert

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U.S. Supreme Court: *Twombly* Pleading Standard Applies to All Civil Actions

In a decision certain to have an impact well beyond the national security context in which it arose, the U.S. Supreme Court has made it clear that the pleading requirements of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), apply to all federal civil actions and proceedings, not just those involving antitrust claims.

Applying the *Twombly* standard in *Ashcroft v. Iqbal*, 2009 U.S. LEXIS 3472 (May 18, 2009), the Court held, 5-4, that Respondent Javaid Iqbal's Complaint failed to adequately plead sufficient facts to state a discrimination claim against former Attorney General John Ashcroft and FBI Director Robert Mueller. In reaching this conclusion, the majority opinion by Justice Kennedy (joined by Chief Justice Roberts and Justices Scalia, Thomas and Alito) unequivocally states that the Court's "decision in *Twombly* expounded the pleading standard for 'all civil actions,' . . . and it applies to antitrust and discrimination suits alike." *Iqbal, supra*, at *39. Significantly, on this point, the Court appears to be unanimous. Although the dissenting Justices (Souter, Stevens, Ginsburg and Breyer) disagree with the majority's application of the *Twombly* standard and the resulting ultimate holding, both dissenting opinions implicitly, if not explicitly, concede that the *Twombly* standard governs federal pleadings outside the antitrust arena.

The Court's decision in *Iqbal* involved an action by a Pakistani Muslim who was arrested and detained as part of the Justice Department's investigation in the wake of the September 11, 2001 terrorist attacks. According to his Complaint, Respondent was arrested by the FBI in

November 2001 on immigration-related fraud charges, and thereafter was designated a "person of interest" and held under restrictive conditions in a maximum security unit. Iqbal's Complaint alleged that Petitioners Ashcroft and Mueller designated him a person of "high interest" on account of his race, religion or national origin, that they approved a government policy of holding post-September 11 detainees under highly restrictive conditions, and that they "each know of, condoned, and willfully and maliciously agreed to subject" respondent to harsh confinement conditions "as a matter of policy, solely on account of [his] religion, race, and/or national origin and for no legitimate penological interest." The Complaint identified Ashcroft as the "architect" of the policy, and Mueller as "instrumental in [its] adoption, promulgation and implementation." *Iqbal, supra*, at *13-14.

The district court denied Petitioners' motion to dismiss the Complaint on qualified immunity grounds, and Petitioners sought interlocutory review by the Second Circuit Court of Appeals. After considering the Supreme Court's *Twombly* decision, issued while the appeal was pending, the Second Circuit held that Iqbal had sufficiently alleged his claims against Ashcroft and Mueller.

Reversing the Second Circuit, the Supreme Court reiterated and expanded upon *Twombly*'s articulation of the pleading requirements under Federal Rule of Civil Procedure 8. The Court highlighted two "working principles" underlying its decision in *Twombly*.

First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions. Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice. . . .

Second, only a complaint that states a plausible claim for relief survives a motion to dismiss. Determining whether a complaint states a plausible claim for relief will . . . be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense. But where the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not “show[n]”—“that the pleader is entitled to relief.”

Iqbal, supra, at *29-30 (quoting Fed. R. Civ. P. 8(a)(2)) (other citations omitted).

The Court expressly rejected Iqbal’s argument that Twombly should be limited to pleadings in the antitrust context. *Id.* at *39. The Court further declined to relax Rule 8’s pleading requirements based on the trial court’s ability to limit discovery as to defendants asserting qualified immunity. *Id.* at *39-42 (“Because respondent’s complaint is deficient under Rule 8, he is not entitled to discovery, cabined or otherwise.”). Finally, the Court observed that although Federal Rule of Civil Procedure 9(b) permits a plaintiff to allege intent and other states of mind “generally,” this provision “merely excuses a party from pleading . . . intent under an elevated pleading standard. It does not give him license to evade the less rigid—though still operative—strictures of Rule 8.” *Id.* at 43 (citations omitted). ■

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